

JOHANN A. BASS #081201126
Name and Prisoner/Booking Number

PIMA COUNTY JAIL
Place of Confinement

P.O. BOX 951 3-B-33
Mailing Address

TUCSON, AZ, 85702
City, State, Zip Code

<input checked="" type="checkbox"/> FILED	<input type="checkbox"/> LODGED
<input type="checkbox"/> RECEIVED	<input type="checkbox"/> COPY
FEB 03 2009	
CLERK U S DISTRICT COURT DISTRICT OF ARIZONA	
BY	Z DEPUTY

(Failure to notify the Court of your change of address may result in dismissal of this action.)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

JOHANN ALEXANDER BASS
(Full Name of Plaintiff) Plaintiff,

vs.

(1) TIMOTHY BAIARDI
(Full Name of Defendant)

(2) CITY OF PHOENIX

(3) PHOENIX POLICE DEPARTMENT

(4) et al.

Defendant(s).

☐ Check if there are additional Defendants and attach page 1-A listing them.

CASE NO. CV 09-208-PHX-FJM-JRI
(To be supplied by the Clerk)

CIVIL RIGHTS COMPLAINT
BY A PRISONER

JURY TRIAL DEMANDED

- ☒ Original Complaint
☐ First Amended Complaint
☐ Second Amended Complaint

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:

☒ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983

☐ 28 U.S.C. § 1331; Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971).

☐ Other: _____

2. Institution/city where violation occurred: PHOENIX, AZ

B. DEFENDANTS

1. Name of first Defendant: TIMOTHY BAIARDI. The first Defendant is employed as:
PHOENIX POLICE OFFICER at CITY OF PHOENIX.
(Position and Title) (Institution)
2. Name of second Defendant: CITY OF PHOENIX. The second Defendant is employed as:
MUNICIPALITY at PHOENIX ARIZONA.
(Position and Title) (Institution)
3. Name of third Defendant: PHOENIX POLICE DEPARTMENT. The third Defendant is employed as:
POLICE DEPARTMENT at PHOENIX, AZ.
(Position and Title) (Institution)
4. Name of fourth Defendant: _____. The fourth Defendant is employed as:
_____ at _____.
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☒ Yes ☐ No
2. If yes, how many lawsuits have you filed? 3. Describe the previous lawsuits:
 - a. First prior lawsuit:
 1. Parties: JOHANN BASS v. AZ DEPARTMENT OF CORRECTIONS
 2. Court and case number: DISTRICT COURT IN PHOENIX, AZ. FORGOT CASE #
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) PARTIES REACHED SETTLEMENT PRIOR TO TRIAL
 - b. Second prior lawsuit:
 1. Parties: JOHANN BASS v. MICHAEL JEANS
 2. Court and case number: DISTRICT COURT IN PHOENIX, AZ FORGOT CASE #
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) DISMISSED FOR FAILURE TO STATE CLAIM UPON WHICH RELIEF COULD BE GRANTED, DEF. WAS IMMUNE
 - c. Third prior lawsuit:
 1. Parties: JOHANN BASS v. JOSEPH ARPAIO
 2. Court and case number: DISTRICT COURT IN PHOENIX AZ FORGOT CASE #
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) DISMISSED FOR MISSING DEADLINES AND NOT COMPLYING W/COURT ORDER. BECAME INCARCERATED AGAIN.

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

D. CAUSE OF ACTION

COUNT I

1. State the constitutional or other federal civil right that was violated: 4th AMENDMENT TO UNITED STATES CONSTITUTION, PROTECTION FROM UNREASONABLE SEIZURE OF PERSON.

2. **Count I.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

- | | | | |
|---|-----------------------------------|---|---------------------------------------|
| <input type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation |
| <input checked="" type="checkbox"/> Excessive force by an officer <input type="checkbox"/> Threat to safety <input type="checkbox"/> Other: _____ | | | |

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count I. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

ON FEBRUARY 8th 2007 IN PHOENIX, AZ PHOENIX POLICE OFFICER TIMOTHY BAIARDI WHILE ACTING UNDER COLOR OF STATE LAW SUBJECTED THE PLAINTIFF TO A VIOLATION OF HIS FEDERALLY PROTECTED U.S. CONSTITUTIONAL RIGHTS BY ASSAULTING AND USING EXCESSIVE FORCE ON HIM BY PUNCHING THE PLAINTIFF WITH A CLOSED FIST ON THE RIGHT SIDE OF HIS FACE. DEFENDANT BAIARDI THEN THREW THE PLAINTIFF TO THE GROUND CAUSING HIS FACE TO SLAM AGAINST THE PAVEMENT CAUSING MORE INJURY TO THE PLAINTIFF

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

THE PLAINTIFF SUFFERED TRAUMA, BLEEDING, PAIN AND MENTAL DISTRESS BY THE ASSAULT ON HIM BY TIMOTHY BAIARDI IN VIOLATION OF HIS FEDERALLY PROTECTED U.S. CONSTITUTIONAL RIGHT. THE PLAINTIFF WAS INJURED BY THE ASSAULT.

5. **Administrative Remedies:**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☒ No
- b. Did you submit a request for administrative relief on Count I? ☐ Yes ☒ No
- c. Did you appeal your request for relief on Count I to the highest level? ☐ Yes ☒ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. ADMINISTRATIVE RELIEF DOES NOT COVER DAMAGES. NOTICE OF CLAIM WENT UNANSWERED BY CITY OF PHOENIX

COUNT II

1. State the constitutional or other federal civil right that was violated: 4th AMENDMENT TO U.S. CONSTITUTION, RIGHT TO BE FREE FROM UNREASONABLE SEIZURE

2. Count II. Identify the issue involved. Check **only one**. State additional issues in separate counts.

<input type="checkbox"/> Basic necessities	<input type="checkbox"/> Mail	<input type="checkbox"/> Access to the court	<input type="checkbox"/> Medical care
<input type="checkbox"/> Disciplinary proceedings	<input type="checkbox"/> Property	<input type="checkbox"/> Exercise of religion	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Excessive force by an officer	<input type="checkbox"/> Threat to safety	<input checked="" type="checkbox"/> Other: <u>FALSE ARREST</u>	

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count II. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

ON FEBRUARY 5th 2007 IN PHOENIX, AZ PHOENIX POLICE OFFICER TIMOTHY BAIARDI WHILE ACTING UNDER COLOR OF STATE LAW SUBJECTED THE PLAINTIFF TO A VIOLATION OF HIS FEDERALLY PROTECTED CONSTITUTIONAL RIGHTS BY FALSLY ARRESTING HIM. SUBSEQUENTLY TO ASSAULTING THE PLAINTIFF OFFICER BAIARDI CONDUCTED AN INVESTIGATION AND FOUND THAT THE PLAINTIFF HAD NOT COMMITTED THE OFFENSE FOR WHICH HE STOPPED AND QUESTIONED HIM ABOUT. IN AN EFFORT TO COVER FOR HIS UNLAWFUL ASSAULT ON THE PLAINTIFF OFFICER BAIARDI TOLD RESPONDING OFFICERS HE HAD BEEN ASSAULTED BY THE PLAINTIFF. HE CHARGED THE PLAINTIFF WITH AGGRAVATED ASSAULT ON LAW ENFORCEMENT AND RESISTING ARREST. DURING AN INVESTIGATION CONDUCTED BY INTERNAL AFFAIRS OFFICER BAIARDI ADMITTED THAT THE PLAINTIFF HAD NEVER SWUNG AT HIM AND NEVER HIT HIM. THERE BEING NO UNDERLYING OFFENSE FOR WHICH TO CHARGE THE PLAINTIFF WITH RESISTING ARREST MAKES THE ARREST FALSE AND UNLAWFUL. UNDER ARIZONA LAW ARS 13-404(B)(2) BECAUSE OFFICER BAIARDI USED FORCE WHICH EXCEEDED WHAT IS ALLOWED BY LAW THE PLAINTIFF WAS LEGALLY JUSTIFIED IN RESISTING ARREST BY NOT SURRENDERING HIS ARMS TO BY CUFFED. PLAINTIFF WAS KNOCKED NEARLY OR FULLY UNCONSCIENCE BY OFFICER BAIARDI'S FIRST PUNCH AND COULD NOT FOR THAT TIME UNDERSTAND WHAT WAS BEING DONE, BUT KNEW HE WAS HURT

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

THE PLAINTIFF WAS JAILED SUFFERED MENTAL DISTRESS, CONVICTED OF A CRIME HE DID NOT COMMIT AND LOSS OF LOVE AND AFFECTION FROM FAMILY AND FRIENDS BY OFFICER BAIARDI'S VIOLATING HIS FEDERALLY PROTECTED U.S. CONSTITUTIONAL RIGHTS

5. **Administrative Remedies.**

- Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?
☐ Yes ☒ No
- Did you submit a request for administrative relief on Count II?
☐ Yes ☒ No
- Did you appeal your request for relief on Count II to the highest level?
☐ Yes ☒ No
- If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. ADMINISTRATIVE RELIEF DOES NOT COVER DAMAGES. NOTICE OF CLAIM WENT UNANSWERED BY CITY OF PHOENIX

COUNT III

1. State the constitutional or other federal civil right that was violated: 14th AMENDMENT TO U.S. CONSTITUTION DUE PROCESS RIGHT TO MEDICAL CARE

2. **Count III.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

- | | | | |
|--|---|---|--|
| <input type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input checked="" type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: | |

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count III. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

ON FEBRUARY 8th 2007 IN PHOENIX, AZ PHOENIX POLICE OFFICER TIMOTHY BAIARDI AND OTHER PHOENIX POLICE OFFICERS WHILE ACTING UNDER COLOR OF STATE LAW SUBJECTED THE PLAINTIFF TO A VIOLATION OF HIS FEDERALLY PROTECTED U.S. CONSTITUTIONAL RIGHTS BY REFUSING AND/OR FAILING TO PROVIDE THE PLAINTIFF WITH MEDICAL CARE FOR HIS INJURIES CAUSED BY THE ASSAULT ON HIM BY OFFICER BAIARDI. OFFICER BAIARDI AND OTHER PHOENIX POLICE OFFICERS WERE DELIBERATELY INDIFFERENT TO THE PLAINTIFF'S NEED FOR MEDICAL CARE BECAUSE ANY REASONABLE PERSON COULD DETERMINE THE NEED FOR MEDICAL CARE, THE LIKELIHOOD OF PAIN, THE SEVERITY OF PAIN AND THE EXTENT TO WHICH PAIN AND INJURY HAD ALREADY OCCURRED BY LOOKING AT THE INJURED AND BLEEDING PLAINTIFF

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

THE PLAINTIFF SUFFERED UNNECESSARY PAIN AND SUFFERING AND POSSIBLY OTHER UNDISCOVERED INJURIES AND POSSIBLY PERMANENT DAMAGES DUE TO NO MEDICAL CARE IN VIOLATION OF HIS FEDERALLY PROTECTED U.S. CONSTITUTIONAL RIGHTS

5. **Administrative Remedies.**

- Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☒ No
- Did you submit a request for administrative relief on Count III? ☐ Yes ☒ No
- Did you appeal your request for relief on Count III to the highest level? ☐ Yes ☒ No
- If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. ADMINISTRATIVE RELIEF DOES NOT COVER FOR DAMAGES. NOTICE OF CLAIM WENT UNANSWERED BY CITY OF PHOENIX

If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.

COUNT FOUR

PAGE 6

1. CONSTITUTIONAL RIGHT VIOLATED: 4th AMENDMENT TO U.S. CONSTITUTION PROTECTION FROM UNREASONABLE SEIZURE OF PERSON

2. COUNT FOUR: THREAT TO SAFETY FROM INADEQUATE TRAINING

3. SUPPORTING FACTS:

THE CITY OF PHOENIX, AND THE PHOENIX POLICE DEPARTMENT'S POLICYMAKERS ACTING UNDER COLOR OF STATE LAW HAS AFFIRMATIVELY HAD A DIRECT ROLE IN SUBJECTING OR CAUSING THE PLAINTIFF TO BE SUBJECTED TO NUMEROUS VIOLATIONS OF HIS FEDERALLY PROTECTED U.S. CONSTITUTIONAL RIGHTS BY FAILING TO TRAIN PHOENIX POLICE OFFICER TIMOTHY BAIARDI ADEQUATELY WHICH CONSTITUTES OFFICIAL POLICIES AND CUSTOMS

POLICYMAKERS FOR THE CITY OF PHOENIX AND PHOENIX POLICE DEPARTMENT HAVE BEEN DELIBERATELY INDIFFERENT TO THE NEED FOR MORE OR BETTER TRAINING BY IGNORING A VERY OBVIOUS NEED FOR MORE OR DIFFERENT TRAINING EVEN THOUGH DEFICIENCIES IN THE TRAINING OF

POLICE OFFICERS CREATED A LIKELIHOOD AND HAVE SHOWN THAT PHOENIX POLICE OFFICERS WILL ACT UNCONSTITUTIONALLY.

DELIBERATE INDIFFERENCE IS ALSO MANIFEST IN THE POLICYMAKERS OF THE CITY OF PHOENIX AND THE PHOENIX POLICE DEPARTMENT'S OFFICIAL POLICY OR CUSTOM OF FAILURE TO AUGMENT TRAINING WHEN RECURRING CONSTITUTIONAL VIOLATIONS, SUCH AS REPEATED INCIDENTS INVOLVING EXCESSIVE USE OF FORCE AND UNLAWFUL ARREST BY PHOENIX POLICE OFFICERS MAKE THE NEED FOR MORE TRAINING PLAINLY OBVIOUS.

4. INJURY:

PLAINTIFF SUFFERED ASSAULT, UNNECESSARY PAIN, FALSE ARREST, FALSE IMPRISONMENT, LOSS OF LOVE AND AFFECTION FROM HIS FAMILY, AND MENTAL DISTRESS FROM THE POLICYMAKERS OF THE CITY OF PHOENIX AND THE PHOENIX POLICE DEPARTMENT'S FAILURE TO ADEQUATELY TRAIN POLICE OFFICERS, IN VIOLATION OF THE PLAINTIFF'S FEDERALLY PROTECTED U.S. CONSTITUTIONAL RIGHTS.

COUNT FOUR CONTINUED

PAGE 6-B

5. ADMINISTRATIVE REMEDIES: NO ADMINISTRATIVE REMEDIES ARE AVAILABLE WHERE I AM CURRENTLY INCARCERATED

ADMINISTRATIVE RELIEF DOES NOT COVER FOR DAMAGES. NOTICE OF CLAIM WENT UNANSWERED BY CITY OF PHOENIX

E. REQUEST FOR RELIEF

State the relief you are seeking:

PLAINTIFF IS SEEKING COMPENSATORY AND PUNITIVE DAMAGES

PLAINTIFF IS ALSO SEEKING THAT ALL DEFENDANTS HIRE AN UNBIASED ATTORNEY TO INVESTIGATE THE PLAINTIFF'S CONVICTION IN MARICOPA COUNTY SUPERIOR COURT CASE # CR2007109404-001 AND THAT THE ATTORNEY FILE THE APPROPRIATE PAPERWORK ON BEHALF OF THE PLAINTIFF SEEKING TO HAVE THE CONVICTION OVERTURNED AS RELIEF FOR ACTUAL POSSIBLE PERMANENT DAMAGES. TO WIT, THE CONVICTION

I declare under penalty of perjury that the foregoing is true and correct.

Executed on JANUARY 28th 2009
DATE

Johann A. Bass
SIGNATURE OF PLAINTIFF

(Name and title of paralegal, legal assistant, or other person who helped prepare this complaint)

(Signature of attorney, if any)

(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.